

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL 2724
16-MD-2724
HON. CYNTHIA M. RUFE

THIS DOCUMENT RELATES TO:

*Providence St. Joseph Health, et al., v. Actavis
Holdco U.S., Inc., et al.*

Civil Action No. 23-cv-3636

**HOSPITAL AND PHARMACY DIRECT ACTION PLAINTIFFS' MOTION FOR
LEAVE TO FILE SUPPLEMENTAL AND FIRST AMENDED COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 15(a)(1), 15(d) and 20(a)(2), Hospital and Pharmacy Direct Action Plaintiffs in the above-captioned action respectfully move for leave to file their Supplemental and First Amended Complaint for Damages and Injunctive Relief (“FAC”). The bases for this motion are set forth below.

The proposed FAC seeks to add Novartis AG and Sandoz AG as Defendants and to allege facts recently revealed in this litigation with respect to Novartis AG and Sandoz AG’s participation in the alleged conspiracies. The proposed FAC also includes certain revisions and updates to party identifiers and information, the majority of which were accounted for in a previously entered Joint Stipulation and Order. *See* Joint Stipulation and Order to Waive Service and Extend the Deadline for Stipulating Defendants to Respond to Hospital and Pharmacy Direct Action Plaintiffs’ Complaint, ECF No. 2587. The proposed FAC is filed concurrently with this motion. The redacted public version is filed as Exhibit A, and the unredacted confidential version is filed under seal as Attachment 1.

With regard to the addition of new Defendants Novartis AG and Sandoz AG, the proposed FAC is substantively similar to and relies on the same underlying facts as those in

EPPs’ proposed supplemental and amended complaints. *See* Exhibits 2-10 to End Payor Plaintiffs Memorandum of Law in Support of Their Motion for Leave to Amend and Supplement Certain EPP Complaints (“EPPs’ Brief”), ECF No. 2790. Accordingly, the factual and legal bases and arguments for the amendments set forth in EPPs’ Brief equally apply to Plaintiffs. For the convenience of the Court and to promote the efficient litigation of the issues raised by these motions, Hospital and Pharmacy Direct Action Plaintiffs will not burden the Court with redundant submissions or argument, and instead adopt and incorporate by reference the background and arguments set forth in EPPs’ Brief, except as specifically noted below.

Unlike EPPs, Hospital and Pharmacy Direct Action Plaintiffs may amend as a matter of right. Hospital and Pharmacy Direct Action Plaintiffs filed their original Complaint for Damages and Injunctive Relief on July 1, 2023. Their complaint has not yet been amended nor was it filed within the window referenced in PTO 153. *See* Pretrial Order No. 153 (Fourth Case Management Order Governing Phase 2 Discovery), ECF No. 1648, ¶1 (“Order applies to all amendments as of right, or motions for leave to amend where required, with respect to complaints filed between September 1, 2019 and July 10, 2020, so long as the amendment or motion for leave to amend was filed on or before December 15, 2020”). Defendants have also not yet filed an Answer to Hospital and Pharmacy Direct Action Plaintiffs’ original Complaint. *See* ECF No. 2587 (adjourning the deadline for Defendants to move against, answer, or otherwise respond to the Complaint until such time the court enters a Case Management order setting such deadline). It is therefore Hospital and Pharmacy Direct Action Plaintiffs’ position that leave of Court is not required to amend their Complaint, pursuant to Rule 15(a)(1), but nonetheless include their proposed amendments in this motion out of an abundance of caution.

Based on the foregoing, Hospital and Pharmacy Direct Action Plaintiffs respectfully request that the Court grant this motion and permit the filing of their Supplemental and First Amended Complaint.

DATED: April 1, 2024

Respectfully submitted,

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